

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 20
JUDGES' RETIREMENT AND COMPENSATION

1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT.

(1) (a) Every person who served as a justice of the supreme court or judge of the court of appeals or district judge of the district court and who was receiving benefits from the judges' retirement fund before July 1, 2000, for such service, shall be entitled to benefits from the fund according to the formula for calculating such benefits as provided in section [1-2001](#) (2) (a), Idaho Code.

(b) The term "retirement board" as used in this chapter shall mean the retirement board created by section [59-1304](#), Idaho Code.

(2) Any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state shall prior to retirement elect in writing to retire under either paragraph (a) or (b) of this subsection, provided that a person who has first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, and who is eligible to receive an annual retirement compensation only under the criteria set forth in subsection (3) (c) of this section, may retire only under paragraph (a) of this subsection. Any person who fails to make the election provided for in this subsection prior to retirement shall receive retirement compensation under the provisions of paragraph (a) of this subsection.

(a) (i) On or after July 1, 2000, any person who has served or who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may leave office or retire and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation payable in monthly installments on the first day of each month.

(ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this paragraph applicable to justices or judges who first assumed such office on or after July 1, 2012.

(iii) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation from the highest office in which such person served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section [59-1355](#), Idaho Code.

- (iv) The percentage applicable to all retiring justices and judges shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, but in any event the total percentage shall not be greater than seventy-five percent (75%).
- (b) (i) On or after July 1, 2000, any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may retire from office and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation payable in monthly installments on the first day of each month.
- (ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this paragraph applicable to justices or judges who first assumed such office on or after July 1, 2012.
- (iii) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation of the highest office in which such person served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section [59-1355](#), Idaho Code.
- (iv) The percentage applicable to all retiring justices and judges shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, plus two and one-half percent (2 1/2%) multiplied by five (5) years senior judge service but in any event the total percentage shall not be greater than seventy-five percent (75%).
- (c) (i) A justice or judge electing to retire under paragraph (b) of this subsection and who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for thirty-five (35) days per year for a period of five (5) years.
- (ii) A justice or judge electing to retire under paragraph (b) of this subsection who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for sixty (60) days per year for a period of five (5) years.
- (iii) A justice or judge who serves more than the required number of days per year may carry over the additional days to fulfill the

senior judge service obligation in future years. The terms and conditions of such senior judge service shall be as provided under section [1-2005](#), Idaho Code.

(d) Upon certification from the chief justice that any justice or judge who retired under paragraph (b) of this subsection has failed to perform the senior judge services required under paragraph (c) of this subsection, and has not been relieved of the obligations to perform those services in the manner provided by this subsection, the judges' retirement fund shall recalculate the retirement compensation benefits of the non-complying justice or judge under paragraph (a) of this subsection, and the noncomplying justice or judge shall thereafter receive only the recalculated amount.

(e) A justice or judge may be relieved of the senior judge service obligation imposed by this subsection if he fails for good cause to complete the obligation. A retired justice or judge who is relieved of the obligation to serve as a senior judge shall continue to receive the retirement allowance provided under paragraph (b) of this subsection.

(f) "Good cause" includes, but is not limited to:

(i) Physical or mental incapacitation of a justice or judge that prevents the justice or judge from discharging the duties of judicial office;

(ii) Failure of the supreme court to assign a senior judge to the requisite amount of senior judge service, whether because of insufficient need for senior judges, a determination by the supreme court that the skills of a senior judge do not match the needs of the courts, clerical mistake or otherwise; or

(iii) Death of a senior judge.

(g) "Good cause" does not include:

(i) A senior judge's refusal, without good cause, to accept senior judge assignments sufficient to meet the required amount; or

(ii) A senior judge's affirmative voluntary act that makes him unqualified to serve as a judge of this state including, but not limited to, failure to maintain a residence within the state, commencing the practice of law other than as a mediator, arbitrator or similar alternative dispute resolution function, acceptance of a position in another branch of state government or political subdivision, or the acceptance of a position in the government of the United States or of another state or nation.

(h) The supreme court may make rules for the implementation of this subsection.

(3) On or after July 1, 2000, each person who has served but is not receiving benefits or who is now serving or who shall hereafter serve who shall leave office or retire as justice of the supreme court, judge of the court of appeals, or district judge of a district court in this state shall be eligible to receive an annual retirement compensation when such person shall meet one (1) of the following eligibility criteria:

(a) Attaining the age of sixty-five (65) years and having a minimum service of four (4) years;

(b) Attaining the age of sixty (60) years and having a minimum service of ten (10) years;

(c) Attaining the age of fifty-five (55) years and having a minimum service of fifteen (15) years; or

(d) At any age after twenty (20) years of service.

(4) (a) On or after July 1, 2000, each justice or judge who is now serving or who shall hereafter be appointed or elected and who shall retire by reason of disability preventing him from further performance of the duties of his office, after a service in any or all of said courts of four (4) years or more, shall, upon retirement, be entitled to receive and to have paid to him until death an annual retirement compensation payable in monthly installments on the first day of each month.

(b) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this subsection applicable to justices or judges who first assumed such office on or after July 1, 2012.

(c) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation from the highest office in which such person has served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section [59-1355](#), Idaho Code.

(d) The percentage applicable to all justices and judges who retire by reason of disability shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both, for the first ten (10) years of service, plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, but such percentage shall not exceed seventy-five percent (75%).

(5) All retirement compensation shall be paid out of the judges' retirement fund, provided however, that a justice or judge who has served less than four (4) years shall be entitled to have refunded to him all contributions made by him to the judges' retirement fund, with six and one-half percent (6 1/2%) interest computed annually but shall not be entitled to any other compensation from the fund.

(6) A person who has retired from the office of supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, or any other person receiving benefits as of July 1, 2012, may make an irrevocable election no later than August 1, 2012, to thereafter receive an annual retirement compensation or allowance equal to the amount of the annual retirement compensation or allowance such person was receiving as of July 1, 2012, and to have such compensation or allowance thereafter adjusted annually by the postretirement allowance adjustment established pursuant to section [59-1355](#), Idaho Code.

(7) Notwithstanding any other provision of this section, any person who makes an election to remain in the public employee retirement system of Idaho as provided in section [1-2011](#), Idaho Code, shall not participate in the judges' retirement fund established in this chapter, but shall continue to participate in the public employee retirement system of Idaho and be governed under the provisions of that system, except as provided in section [1-2005](#), Idaho Code.

[1-2001, added 2000, ch. 385, sec. 2, p. 1249; am. 2012, ch. 330, sec. 1, p. 911.]

1-2001a. JUDGES ALREADY RETIRED -- RETIREMENT COMPENSATION -- ACT TO OPERATE PROSPECTIVELY. Every person eligible for retirement compensation who has served as justice of the Supreme Court or judge of the district court who has retired or resigned before the effective date July 1, 1967 of this act shall be entitled to receive and to have paid to him from the judges' retirement fund, retirement compensation based upon the current annual compensation of the office from which he retired or resigned, less a sum equal to 10% of any increase in retirement compensation to which he may become entitled after the effective date of this act.

This act shall operate prospectively, and shall not give to any retired justice or judge a claim against the judges' retirement fund for any increase in retirement compensation for time elapsed prior to the effective date hereof.

[I.C., sec. 1-2001a, as added by 1965, ch. 308, sec. 2, p. 835; am. 1967, ch. 301, sec. 2, p. 853; am. 1969, ch. 183, sec. 2, p. 543.]

1-2001b. CONVERSION OF RETIREMENT COMPENSATION INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The retirement compensation of a justice or judge who, at the time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such retirement compensation to which the justice or judge would otherwise be entitled under section [1-2001](#), Idaho Code, including the value of the spousal benefit provided by section [1-2009](#), Idaho Code, provided the spouse is the contingent annuitant. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other retirement compensation and benefits under this chapter, except the death benefit provided by section [1-2010](#), Idaho Code.

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired justice or judge, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the justice or judge's named contingent annuitant.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a justice or judge, upon notification to the retirement board, the justice or judge's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section [1-2001](#), Idaho Code.

(3) Application for any optional retirement allowance shall be in writing, duly executed and filed with the retirement board. Such application shall contain all information required by the retirement board, including such proofs of age as are deemed necessary by the retirement board.

(4) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(5) Not later than one (1) year after the marriage of a retired justice or judge, the justice or judge may elect option 1 or 2 to become effective

one (1) year after the date of such election, provided the justice or judge's spouse is named as a contingent annuitant, and either:

- (a) The justice or judge was not married at the time of retirement; or
- (b) The justice or judge earlier elected option 1 or 2, having named the justice or judge's spouse as contingent annuitant, and said spouse has died.

(6) Each justice or judge receiving retirement compensation on July 1, 2000, shall have a one-time irrevocable election to name a spouse as a contingent annuitant under subsection (1) (a) of this section.

[1-2001b, added 2000, ch. 385, sec. 3, p. 1251; am. 2012, ch. 330, sec. 2, p. 915.]

1-2002. JUDGES' RETIREMENT FUND -- POWERS AND DUTIES OF THE RETIREMENT BOARD -- INDEMNIFICATION. (1) For the purpose of paying such retirement compensation, there is hereby created in the office of the treasurer of the state of Idaho a fund to be known as the "Judges' Retirement Fund," which shall be separate and apart from all public moneys or funds of this state, which shall be maintained in trust exclusively for the purpose of the provisions of this chapter, and which shall consist of all moneys appropriated from the general fund, and all moneys received from special fees to be paid by parties to civil actions and proceedings, other than criminal, commenced in or appealed to the several courts of the state, together with all contributions out of the salaries and compensation of justices and judges, and interest received from investment, and reinvestment, of moneys of the judges' retirement fund, all as hereinafter provided. The retirement board shall serve as trustee of the trust.

(2) The members of the retirement board, public employee retirement system staff and mortgage and investment committee members shall be provided a defense and indemnified, and the retirement board may determine to provide a defense and indemnity, or refuse a defense and disavow and refuse to pay any judgment, to the same extent as provided in section [59-1305](#)(1), Idaho Code.

(3) All sums of money so accrued and accruing to the judges' retirement fund, less an amount deemed reasonable and necessary by the retirement board to pay for administrative expenses of the judges' retirement fund, are hereby appropriated to the payment of the annual retirement compensation of such retired justices and judges, and to payment of the allowances to surviving spouses.

(4) The retirement board shall submit an annual report for each fiscal year on the status and condition of the judges' retirement fund to the supreme court, to the chairman of the judiciary and rules committee of the senate, to the chairman of the judiciary, rules and administration committee of the house and to the chairmen of the joint finance-appropriations committee. Such report shall include a fiscal year end actuarial evaluation of the judges' retirement fund and shall include a specific report on any costs or savings arising from the retirement of persons under the provisions of subsection (2) (b) of section [1-2001](#), Idaho Code. The retirement board shall consult with the administrative director of the courts concerning any prospective changes or amendments to statutes and rules relating to the judges' retirement fund.

[1-2002, added 1947, ch. 104, sec. 2, p. 210; am. 1965, ch. 308, sec. 3, p. 835; am. 1982, ch. 299, sec. 1, p. 761; am. 2012, ch. 330, sec. 3, p. 916; am. 2012, ch. 330, sec. 4, p. 916.]

1-2003. ADDITIONAL FEES IN CIVIL ACTIONS AND APPEALS. (a) In addition to the fees and charges to be collected by the clerks of the district courts of the state and by other persons authorized by rule or administrative order of the supreme court as now or hereafter provided by law, such clerks and authorized persons are directed to charge and collect the additional sum of twenty-six dollars (\$26.00) for filing a civil case or proceeding of any type in the district court or magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, conservatorships of the person or of the estate or both and guardianships of the person or of the estate or both, except that no fee shall be charged or collected for filing a proceeding under the summary administration procedure for small estates, part 12, [chapter 3, title 15](#), Idaho Code. The additional sum of twenty-six dollars (\$26.00) shall also be collected from any party, except the plaintiff, making an appearance in any civil action in the district court, but such twenty-six dollars (\$26.00) fee shall not be collected from the person making an appearance in civil actions filed in the small claims departments of the district court.

(b) The sum of twenty-six dollars (\$26.00) shall also be collected:

- (1) From an intervenor in an action;
- (2) From a party who files a third party claim;
- (3) From a party who files a cross claim;
- (4) From a party appealing from the magistrate's division of the district court to the district court;
- (5) From a party appealing the decision of any commission, board or body to the district court.

(c) The clerk of the supreme court is authorized and directed to charge and collect, in addition to the fees now prescribed by law and as a part of the cost of filing the transcript on appeal in any civil case or proceeding, other than criminal, appealed to the supreme court, the additional sum of twenty-six dollars (\$26.00); for filing a petition for rehearing, the additional sum of eighteen dollars (\$18.00); for filing an application for any writ for which a fee is now prescribed, the additional sum of eighteen dollars (\$18.00); for filing appeals from the industrial commission, the additional sum of thirteen dollars (\$13.00).

(d) The clerks of the district courts, persons authorized by rule or administrative order of the supreme court and the clerk of the supreme court are directed and required to remit all additional charges and fees authorized by this section and collected during a calendar month, to the state treasurer within five (5) days after the end of the month in which such fees were collected. Prior to the effective date of section [1-2004A](#), Idaho Code, the state treasurer shall place all such sums in the judges' retirement fund. On and after the effective date of section [1-2004A](#), Idaho Code, the state treasurer shall place all such sums in the state general fund.

[1-2003, added 1947, ch. 104, sec. 3, p. 210; am. 1963, ch. 169, sec. 2, p. 489; am. 1967, ch. 246, sec. 1, p. 713; am. 1967 (1st E.S.), ch. 6, sec. 1, p. 26; am. 1969, ch. 138, sec. 1, p. 424; am. 1979, ch. 219, sec. 3, p. 612; am. 1983, ch. 144, sec. 4, p. 366; am. 1990, ch. 246, sec. 1, p. 699; am. 2012, ch. 330, sec. 5, p. 917.]

1-2004. DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES -- CONTRIBUTIONS TO FUND. (1) The state controller shall deduct from the monthly compensation of each justice and judge now holding office, and from the monthly compensation of each person who shall thereafter assume by election or ap-

pointment the office of a justice of the supreme court, a judge of the court of appeals or a judge of a district court, an amount equal to the following percentages of his monthly compensation, and shall issue to such justice or judge a salary warrant in such reduced amount, and shall pay the withheld sums into the judges' retirement fund; provided, however, that after twenty (20) years of service no deductions shall be taken from a judge's compensation for payment to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, seven and sixty-nine hundredths percent (7.69%).

(b) On and after July 1, 2013, and prior to the date on which section [1-2004B](#), Idaho Code, shall be in full force and effect, nine percent (9%).

(c) On and after the date on which section [1-2004B](#), Idaho Code, shall be in full force and effect, nine percent (9%) or such other percentage as may be determined pursuant to section [1-2004B](#), Idaho Code.

(2) Between the first and twentieth day of each month, the supreme court shall, from appropriations made for that purpose as part of the employer's contribution, remit to the judges' retirement fund an amount equal to the following percentages of salaries paid during the previous month to justices and judges who are making contributions to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, eight and ninety-seven hundredths percent (8.97%).

(b) On and after July 1, 2013, and prior to the date on which section [1-2004A](#), Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%).

(c) On and after the date on which section [1-2004A](#), Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%) or such other percentage as may be determined pursuant to section [1-2004A](#), Idaho Code.

[1-2004, added 1947, ch. 104, sec. 4, p. 210; am. 1955, ch. 62, sec. 1, p. 120; am. 1965, ch. 308, sec. 4, p. 835; am. 1967, ch. 301, sec. 3, p. 853; am. 1969, ch. 183, sec. 3, p. 543; am. 1976, ch. 343, sec. 2, p. 1145; am. 1987, ch. 107, sec. 1, p. 220; am. 1994, ch. 180, sec. 3, p. 424; am. 2012, ch. 330, sec. 6, p. 918.]

1-2004A. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES -- AMORTIZATION. (1) The amount of the employer contributions shall consist of the sum of a percentage of the salaries of active members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the retirement board on the basis of assets and liabilities as shown by the annual actuarial valuation, and such rates shall become effective no later than July 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the retirement board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new justice or judge entering the system, to provide for the payment of all prospective benefits in respect to such justice or judge which are not provided by the justice's or judge's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (5) of this section, unless a one (1) year grace period has been made effective by the retirement board. During a grace period, the amortization rate shall be no less than the rate in

effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) Each of the following terms used in this chapter shall have the following meanings:

(a) "Effective date" means the date the rates of contributions based on the valuation become effective pursuant to subsection (1) of this section.

(b) "End date" means the date twenty-five (25) years after the valuation date.

(c) "Projected salaries" means the sum of the annual salaries of all justices and judges.

(d) "Scheduled amortization amount" means the actuarial present value of future contributions payable as amortization payment from the valuation date until the effective date.

(e) "Unfunded actuarial liability" means the excess of the actuarial present value of (i) over the sum of the actuarial present values of (ii), (iii) and (iv) as follows, all determined by the valuation as of the valuation date:

(i) All future benefits payable under this chapter;

(ii) The assets then held by the funding agent for the payment of benefits under this chapter;

(iii) The future normal costs payable in respect of all then active justices and judges;

(iv) The future contributions payable under section [1-2004](#), Idaho Code, by all current active justices and judges;

(f) "Valuation" means the most recent annual actuarial valuation.

(g) "Valuation date" means the date of such valuation.

(5) The minimum amortization payment rate shall be that percentage, calculated as of the valuation date, of the then actuarial present value of the projected salaries from the effective date to the end date which is equivalent to the excess of the unfunded actuarial liability over the scheduled amortization amount.

[1-2004A, added 2012, ch. 330, sec. 7, p. 919.]

1-2004B. EMPLOYEE CONTRIBUTIONS. The contribution for a justice, judge of the court of appeals or district judge shall be eighteen and five-tenths percent (18.5%) of the employer contribution rate determined pursuant to section [1-2004A](#), Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary. The retirement board is specifically authorized to certify to the state controller the necessary adjustments in the rate of member contributions.

[1-2004B, added 2012, ch. 330, sec. 8, p. 920.]

1-2005. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A justice or judge who leaves office or retires from the supreme court, court of appeals or a district court, except a justice or judge retired under the provisions of section [1-2001](#) (4), Idaho Code, may be designated a senior judge of the state of Idaho by the supreme court.

(2) Upon filing with the secretary of state an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge

is eligible for temporary assignment by the supreme court to a state court as provided in this subsection, whenever the supreme court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge may sit as a district or magistrate judge of the district court of any county or may sit with the supreme court or court of appeals or may perform such other duties pertaining to the judicial department of government as may be requested.

(3) The assignment of a senior judge shall be made by an order which shall designate the court or duties to which the judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the supreme court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly qualified judge of the court to which the senior judge is assigned.

(5) A senior judge assigned as provided in this section, other than one performing services required by section [1-2001](#) (2) (b), Idaho Code, shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to eighty-five percent (85%) of the daily salary of the highest office in which the senior judge served. However, a retired judge shall not receive for services as a senior judge during any fiscal year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the current annual salary of the highest office in which the senior judge served; except that this limitation shall not apply if the chief justice of the supreme court determines that extended service by one (1) or more senior judges is required because of extraordinary circumstances, such as a natural disaster or a judge's absence from service due to military service or medical disability. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled. Such additional compensation above the retirement compensation benefits accruing to such senior judge shall be paid from the general fund in accordance with appropriations provided by the legislature.

(6) A senior judge assigned to a court located outside the county in which the senior judge regularly resides shall receive, in addition to any daily compensation, reimbursement for traveling and subsistence expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must: maintain a residence within the state; comply with all applicable provisions of the Idaho code of judicial conduct; and take, subscribe and file with the secretary of state, the following oath or affirmation:

"I,, do solemnly swear (or affirm, as the case may be) that as a senior judge of the state of Idaho, I will support the Constitution of the United States and the Constitution of the State of Idaho, and that upon hereafter accepting any assignment to serve as a judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability."

(8) Except as provided in section [1-2001](#) (2) (b), Idaho Code, any period of service rendered by a senior judge shall not in any way be computed for ad-

ditional retirement benefits, and the state controller shall not receive or deduct any sum for transfer to the judges' retirement fund or to the public employee retirement system of Idaho.

[1-2005, added 2000, ch. 385, sec. 5, p. 1253; am. 2005, ch. 188, sec. 1, p. 574; am. 2015, ch. 61, sec. 1, p. 169.]

1-2006. APPLICATION OF ACT. [Chapter 20, title 1](#), Idaho Code, shall operate prospectively in its application as to all persons who are receiving retirement benefits thereunder, provided that the Supreme Court may by order apply all of the provisions of this chapter to service under section [1-611](#), Idaho Code.

In no case shall any justice or judge, serving at the time this act becomes effective, receive and have paid to him, at the time of his retirement, retirement compensation in any lesser amount than he would have become entitled to receive and have paid to him under the act as it existed prior to this amendment.

[1-2006, added 1947, ch. 104, sec. 6, p. 210; am. 1959, ch. 131, sec. 1, p. 279; am. 1967, ch. 301, sec. 5, p. 853; am. 1969, ch. 183, sec. 4, p. 543; am. 1983, ch. 144, sec. 2, p. 365.]

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. (1) The retirement board shall select and contract with investment managers registered with the securities and exchange commission to manage the investment of the judges' retirement fund. The investment managers shall, subject to the direction of the board, exert control over the funds as though the investment managers were the owners thereof and are hereby authorized to invest the judges' retirement fund as hereinafter provided.

(a) The retirement board shall formulate an investment policy governing the investment of judges' retirement funds. The policy shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions.

(b) In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and securities of the fund, investment managers shall also be governed by the prudent man investment act, sections [68-501](#) through [68-506](#), Idaho Code; provided, however, that the retirement board may in its sole discretion, limit the types, kinds and amounts of such investments.

(c) The retirement board shall adopt the actuarial tables and assumptions in use by the judges' retirement fund and may change the same in its sole discretion at any time.

(2) The retirement board is hereby authorized to select and contract with a bank or trust company authorized to do business in the state of Idaho, to act as custodian of the judges' retirement fund, who shall hold all securities and moneys of the judges' retirement fund and shall collect the principal, dividends and interest thereof when due and pay the same into the judges' retirement fund.

(3) The state treasurer shall pay all warrants drawn on the judges' retirement fund for making such investments when issued pursuant to vouchers approved by the retirement board.

[1-2008, added 1990, ch. 247, sec. 2, p. 700; am. 1994, ch. 180, sec. 5, p. 425; am. 2003, ch. 32, sec. 2, p. 117; am. 2004, ch. 240, sec. 1, p. 702; am. 2012, ch. 330, sec. 9, p. 920.]

1-2009. BENEFIT TO SURVIVING SPOUSE OF JUSTICE OR JUDGE. The legislature hereby finds and declares that the payment of allowances to the surviving spouses of justices of the supreme court, judges of the court of appeals and district judges of the district court of the state of Idaho, serves the public purpose of promoting the public welfare by encouraging experienced jurists to continue their service and that their continued service and increased efficiency will be secured in the expectation that the legislature will fairly provide for their surviving spouses, and that such continued service and increased efficiency of such jurists, secure in this knowledge, will be of substantial benefit to the state.

The surviving spouse, of any justice or judge entitled to benefits under this chapter who dies on or after July 1, 1965, shall receive an allowance from the judges' retirement fund, payable monthly, and as hereinafter provided.

(a) In the case of a justice or judge receiving retirement compensation at the time of death, allowance to his surviving spouse shall commence immediately and be payable to such spouse from such fund in an amount equal to fifty percent (50%) of the retirement compensation to which such justice or judge would be entitled under section [1-2001](#)(2), Idaho Code; provided, that the allowance payable to the surviving spouse of a justice or judge who first assumed the office of supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall be thirty percent (30%) of the retirement compensation to which such justice or judge would be entitled.

(b) In the case of a justice or judge who has service as a justice of the supreme court, judge of the court of appeals or district judge of four (4) years or more and is not receiving retirement compensation at the time of death, commencing immediately, the surviving spouse shall be paid an allowance from such fund in the amount of fifty percent (50%) of the retirement compensation to which the justice or judge would have been entitled under section [1-2001](#)(2)(a), Idaho Code, as if the justice or judge was eligible to retire and had retired immediately before his death; provided, that the allowance payable to the surviving spouse of a justice or judge who first assumed the office of supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall be thirty percent (30%) of the retirement compensation to which such justice or judge would have been entitled, as if the justice or judge was eligible to retire and had retired immediately before his death.

(c) The allowance shall be paid until the death of the surviving spouse.

(d) The surviving spouse of a justice or judge who is not receiving benefits from the judges' retirement fund at the time of the justice's or judge's death may elect to take an optional retirement allowance as a surviving annuitant under option 1 of section [1-2001b](#)(1)(a), Idaho Code. Such optional retirement allowance shall be calculated as if the justice or judge was eligible to retire and had retired immediately before his death.

[1-2009, as added by 1965, ch. 308, sec. 5, p. 835; am. 1967, ch. 301, sec. 6, p. 853; am. 1969, ch. 183, sec. 5, p. 543; am. 1974, ch. 244, sec. 2, p. 1618; am. 1983, ch. 144, sec. 3, p. 365; am. 1997, ch. 150, sec. 1, p. 427; am. 2000, ch. 385, sec. 6, p. 1254; am. 2012, ch. 330, sec. 10, p. 920.]

1-2010. DEATH BENEFIT. (1) The death benefit of a deceased justice or judge is the excess, if any, of the justice's or judge's accumulated contributions to the judges' retirement fund, including accrued interest at the rate provided in section [1-2001](#)(5), Idaho Code, over the aggregate of all retirement compensation payments and allowances ever made to the justice, judge, spouse or annuitant from the judges' retirement fund.

(2) The death benefit is payable, and all other retirement compensation benefits and allowances shall cease, upon the death of the justice, judge, spouse or annuitant receiving a retirement compensation or allowance.

(3) The death benefit shall be paid to the beneficiary named by the justice or judge in a written designation of beneficiary on file with the retirement board if the beneficiary is surviving at the time the death benefit is payable; otherwise the death benefit shall be paid to the estate of the deceased justice or judge for distribution in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

[1-2010, added 1997, ch. 150, sec. 2, p. 428; am. 2000, ch. 385, sec. 7, p. 1255; am. 2012, ch. 330, sec. 11, p. 921.]

1-2011. ELECTION TO CONTINUE PARTICIPATION IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO. On and after July 1, 1998, any vested member of the public employee retirement system of Idaho may, within thirty (30) days of becoming a justice of the supreme court, judge of the court of appeals or district judge in the state of Idaho, make a one-time irrevocable election to continue participation as an active member of that system in lieu of participation in the judges' retirement fund established in this chapter and the justice, judge or spouse shall not be entitled to any compensation, benefits or allowances under any provision of this chapter. An election must be in writing and must be provided to both the supreme court and the public employee retirement system of Idaho. Once an election is made, all service as justice or judge, including noncontinuous service, shall be accrued to the public employee retirement system of Idaho, and shall be governed under the provisions of that system, except as provided in section [1-2005](#), Idaho Code.

[1-2011, added 1998, ch. 126, sec. 3, p. 469.]

1-2012. RULES AND ADMINISTRATIVE POLICIES. Subject to the other provisions of this chapter, the retirement board shall have the power and authority to adopt, amend and rescind such rules and administrative policies as may be necessary for the proper administration of this chapter.

[1-2012, added 2006, ch. 72, sec. 1, p. 225; am. 2012, ch. 330, sec. 12, p. 922.]